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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,344	03/19/2004	Remy Oddo	40128/01401	7004

30636 7590 08/08/2005

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NEW YORK, NY 10038

EXAMINER
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JACKSON, ANDRE L

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 08/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/804,344

Applicant(s)

ODDO ET AL.

Examiner

Andre' L. Jackson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10, 15 is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-14, 16-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

*DETAILED ACTION*

*Priority*

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Canada on March 19, 2003. It is noted, however, that applicant has not filed a certified copy of the #2,423,282 application as required by 35 U.S.C. 119(b).

*Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9, 11-14 and 16-21 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 6,386,075 to Shiao. Shiao discloses a tool handle comprising;

a stationary portion (10) mounted on a body of the tool; a mobile portion (20) comprising a hand grip member; and an articulation between the stationary and mobile portions, the articulation comprising: a pivot assembly (211, 40, 121) interconnecting the stationary and mobile portions; and a resilient vibration-damping assembly (30, 35, 122-124) interposed between the stationary and mobile portions to restrict angular movement of the mobile portion on the pivot assembly about the stationary portion substantially within a given angular range.

As to claims 2-4 and 18-20, a reciprocating movement of the damping assembly occurs within the body of the tool along a longitudinal or first direction of the handle when assembled. The pivot assembly defines a pivot axis (Fig. 3) substantially perpendicular to the first direction

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and the hand grip member is spaced apart (21) in a second direction generally perpendicular to the first direction.

As to claims 5, 7-9, 11-14 and 21, the stationary portion comprises a first arm member (12) parallel to the first direction defining a proximal end (13) fixedly connected to the tool and a distal end forming part of the articulation and the mobile portion comprises a second arm member (30) angularly spaced apart from the first arm member by an angle within a range of 75 to 130 degrees (Fig. 7). The second arm member comprises a proximal end (25) forming part of the articulation and a distal end at the hand grip. Further, the first arm member defines first and second opposite flat faces at (12) and a third end flat face (125). The second arm member comprises a hollow rectangular cavity (23) to receive the first arm member defining opposite inner walls (22) and a rear or bottom wall (26). First and second resilient members (321) are disposed between the opposite longitudinal flat faces and the inner walls. The resilient members comprise two pairs of parallel legs (32) defining first and second shoulders (31) at one end and opposite thick free ends extending between the opposite longitudinal flat faces, third end flat face and the inner walls as well.

#### ***Allowable Subject Matter***

Claims 10 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. In particular, Huang and Dohse et al disclose varying rotating handle devices which may be used in combination or singly to meet the structural limitations of applicant's claims.

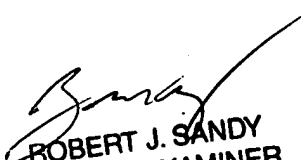
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' L. Jackson whose telephone number is (571) 272-7067. The examiner can normally be reached on Mon. - Fri. (9:30 am - 6 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

André L. Jackson  
Patent Examiner  
AU 3677

ALJ

  
ROBERT J. SANDY  
PRIMARY EXAMINER